

## Message Text

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ACTION EB-08

INFO OCT-01 EUR-12 IO-13 ISO-00 AGRE-00 CEA-01 CIAE-00  
COME-00 DODE-00 FRB-03 H-01 INR-10 INT-05 L-03  
LAB-04 NSAE-00 NSC-05 PA-01 CTME-00 AID-05 SS-15  
STR-07 ITC-01 TRSE-00 ICA-11 SP-02 SOE-02 OMB-01  
DOE-15 /126 W

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P 152044Z MAY 78

FM AMEMBASSY OTTAWA

TO SECSTATE WASHDC PRIORITY 7410

AMEMBASSY BRUSSELS PRIORITY

INFO USMISSION GENEVA PRIORITY

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USEEC

GENEVA ALSO FOR USMTN (PASS STEWART)

E.O. 11652: N/A

TAGS: ETRD, GATT, CA

SUBJECT: ARTICLE 19 CONSULTATIONS WITH GOC RE FOOTWEAR  
QUOTAS

REFS: A. OTTAWA 754, B. STATE 076604, C. STATE 108449  
D. OTTAWA 2257

1. SUMMARY. IN THIRD ROUND OF FOOTWEAR CONSULTATIONS RE  
GOC'S RECENT IMPOSITION OF FOOTWEAR QUOTAS, USDEL INFOR-  
MALLY PRESENTED LIST OF POSSIBLE ITEMS FOR RETALIATION IN  
RESPONSE TO CANDEL'S CONTINUED UNWILLINGNESS TO CONSIDER  
DELETING FROM QUOTA COVERAGE ITEMS OF MAJOR U.S.  
SUPPLIER INTEREST. CANDEL ALSO REJECTED POSSIBILITY OF  
"TRADE-OFF" OF GOC RIGHTS ON SPECIALTY STEEL FOR BALANCE  
OF USG RIGHTS ON FOOTWEAR. CANDEL STRESSED THAT U.S.  
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EXPORTS AND MARKET SHARE HAD NOT DECLINED DURING FIRST  
THREE MONTHS OF THE SYSTEM AND ARGUED TRADITIONAL CANADIAN  
VIEW THAT IN ABSENCE OF DEMONSTRATED TRADE DAMAGE, THERE  
WAS NO BASIS FOR U.S. CLAIM TO REDRESS OR COMPENSATION.  
HOWEVER, CANDEL ADMITTED THAT LICENSES ISSUED DURING  
FIRST FIVE MONTHS FOR U.S. SOURCE FOOTWEAR TOTALED ONLY  
3 PERCENT (VERSUS A HISTORICAL MARKET SHARE OF 6 PERCENT).

CANDEL REPEATED OFT-STATED POSITION THAT ANY U.S. RETALIATION WOULD BE APPEALED TO CONTRACTING PARTIES. MEETING CONCLUDED ON AGREEMENT THAT BOTH SIDES WOULD BE IN TOUCH WITHIN 2-3 WEEKS BEFORE U.S. TOOK FORMAL STEPS TOWARD RETALIATORY ACTION. END SUMMARY.

2. U.S. AND CANADIAN DELEGATIONS MET MAY 11 FOR THIRD ROUND OF CONSULTATIONS REGARDING THE GOC'S DECEMBER 1ST IMPOSITION OF QUOTAS ON FOOTWEAR IMPORTS (REFS). CANADIAN DELEGATION WAS CHAIRED BY MCPHAIL OF EXTERNAL AFFAIRS; STEWART OF STR AND EMBASSY ECON COUNSELOR CO-CHAIRED U.S. DELEGATION.

3. CANDEL OPENED CONSULTATIONS BY REVIEWING IMPACT OF QUOTA SYSTEM ON CANADIAN IMPORTS. CANDEL NOTED THAT: 1) THE U.S. HAD MAINTAINED ITS AVERAGE IMPORT MARKET SHARE OF 6 PERCENT FOR DECEMBER, JANUARY AND FEBRUARY, ALTHOUGH QUANTITY OF FOOTWEAR LICENSED IN DECEMBER-APRIL PERIOD FOR IMPORT FROM U.S. WAS ONLY 3 PERCENT OF TOTAL LICENSED; 2) TOTAL IMPORTS FROM U.S. CONTINUE AT A HIGH LEVEL APPROXIMATELY EQUAL TO SAME PERIOD ONE YEAR AGO; 3) GOC WAS AWARE OF FEW, IF ANY, DIFFICULTIES RESULTING FROM ADMINISTRATION OF SYSTEM; AND 4) REQUESTS FOR LICENSES FOR IMPORT OF COWBOY BOOTS HAD ONLY BEEN REJECTED IN CASES OF LARGE INCREASES OVER PREVIOUS LEVELS.

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4. USDEL EXPRESSED SURPRISE AT FACT THAT LICENSES GRANTED TO U.S. SOURCE IMPORTS REPRESENTED ONLY 3 PERCENT OF CANADIAN IMPORT MARKET WHILE ACTUAL IMPORTS FROM U.S. HELD CONSTANT AT HISTORICAL 6 PERCENT LEVEL. CANDEL EXPLAINED APPARENT CONTRADICTION IN LICENSES ISSUED AND ACTUAL TRADE BY NOTING THAT: 1) ORDERS FROM U.S. WHICH HAD BEEN HIGH PRIOR TO DECEMBER 1 IN ANTICIPATION OF QUOTA SYSTEM WERE ADMITTED WITHOUT LICENSES, AND 2) LEAD TIME FROM U.S. SOURCES WAS CONSIDERABLY LESS THAN THAT NECESSARY FOR IMPORTS FROM OTHER MAJOR SUPPLIERS. USDEL POINTED OUT THAT LICENSES ISSUED INDICATED SUBSTANTIAL IMPENDING DECLINE IN U.S. FOOTWEAR SALES TO CANADA. CANDEL FLATLY REJECTED U.S. CONTENTION OF INJURY TO U.S. EXPORTS AND CONCENTRATED ON ACTUAL DECEMBER-FEBRUARY TRADE FLOW, RATHER THAN LICENSES ISSUED, AS INDICATOR OF EFFECTS OF QUOTA SYSTEM ON U.S. EXPORTS.

5. RECALLING CANADIAN STATEMENT AT LAST CONSULTATION, USDEL REQUESTED CLARIFICATION OF EXEMPTION OF HIGH-FASHION FOOTWEAR FROM QUOTA COVERAGE, SINCE U.S. FOOTWEAR EXPORTERS WERE UNAWARE OF HIGH-FASHION EXEMPTION. CANDEL ASSURED USDEL THAT A FORMAL ANNOUNCEMENT EXCLUDING HIGH-FASHION

FOOTWEAR HAD BEEN MADE IN EARLY FEBRUARY BUT COULD NOT PRODUCE THE ANNOUNCEMENT. CANDEL ASSURED USDEL THAT FORMAL ANNOUNCEMENT OF EXCLUSION OF HIGH-FASHION FOOTWEAR WOULD BE DELIVERED TO USDEL MAY 12 BUT FAILED TO DO SO.

6. IN RESPONSE TO USDEL'S QUESTIONS ABOUT DEFINITION OF "HIGH-FASHION" FOOTWEAR, CANDEL REPEATED THAT HIGH-FASHION FOOTWEAR IS MORE OR LESS DEFINED BY PRICE, SOURCE, AND BRAND NAME AND EXPRESSED REGRET THAT DEFINITION OF HIGH-FASHION FOOTWEAR COULD NOT BE MORE PRECISE. CANDEL AGREED TO REFINER DEFINITION OF HIGH-FASHION FOOTWEAR

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INTERNALLY AND REPORT BACK TO USDEL.

7. USDEL INQUIRED IF CEILING ON FOOTWEAR IMPORTS OF 32.5 MILLION PAIRS REPRESENTED ADMINISTRATIVE GOAL OF QUOTA SYSTEM OR A LEVEL FIXED BY REGULATION. CANDEL EXPLAINED THAT POLICY STATEMENT BY THE RESPONSIBLE MINISTER (FOLLOWING CONSULTATIONS WITH HIS MINISTERIAL COLLEAGUES) CARRIES FORCE OF LAW UNDER CANADIAN SYSTEM. THEREFORE, CEILING LEVEL OF 32.5 MILLION PAIRS IS NOT CODIFIED IN FORMAL REGULATION. CANDEL NOTED THAT THE RESPONSIBLE MINISTER HAS FLEXIBILITY TO ALTER ADMINISTRATION OF SYSTEM (E.G., MINOR ALTERATIONS IN QUOTA COVERAGE) WITHOUT CONSULTATIONS WITH MINISTERIAL COLLEAGUES, IF THE CHANGES ARE CONSISTENT WITH POLICY GUIDELINES.

8. USDEL ALSO SOUGHT CLARIFICATION OF GOC'S TREATMENT OF "UPPERS" IN THE QUOTA SYSTEM. CANDEL ASSURED USDEL THAT IMPORTS OF UPPERS ARE NOT COUNTED AGAINST QUOTA (32.5 MILLION PAIRS), BUT GOC HAS NOT FORMALLY ANNOUNCED THIS ALTERATION IN THE QUOTA SYSTEM.  
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9. USDEL THEN POINTED OUT THAT, ACCORDING TO U.S FOOTWEAR EXPORTERS, CANADIAN IMPORTERS HAVE REPORTED DIFFICULTIES IN SECURING PROMPT DOCUMENTATION AND NOTED THAT THIS PROCEDURAL DIFFICULTY INTERFERED WITH NORMAL SHIPPING PATTERNS. CANDEL ADMITTED PROBLEMS INHERENT IN IMPOSING ANY TRADE RESTRICTIONS ON NORMAL MARKET FLOWS BUT ASSURED USDEL THAT UPCOMING OVERNIGHT SERVICE AS A RESULT OF DECENTRALIZATION OF OFFICES ABLE TO ISSUE LICENSES WOULD ALLEVIATE PROBLEM.

10. CANDEL ALSO APOLOGIZED FOR FORGETTING USDEL'S INQUIRIES IN PREVIOUS CONSULTATIONS REGARDING TREATMENT OF BULK FOOTWEAR SALES TO INSTITUTIONS. CANDEL ALSO NOTED THAT MOST OF QUOTA HELD BACK FOR HARDSHIP CASES HAD BEEN RECENTLY ALLOCATED.

11. TURNING TO POLICY ASPECT OF CONSULTATIONS, USDEL STRESSED ITS INTEREST IN AN AMICABLE SETTLEMENT OF ARTICLE 19 CONSULTATIONS THROUGH A COMBINATION OF EX-OUTS FOR ITEMS OF MAJOR SUPPLIER INTEREST AND A TRADE-OFF OF GATT RIGHTS ON FOOTWEAR AND SPECIALTY STEEL AS PROPOSED IN DIPLOMATIC NOTE (REF C). USDEL NOTED THAT "TRADE-OFFS" OF GATT RIGHTS ON SPECIALTY STEEL FOR GOC IN RETURN FOR U.S. AGREEMENT TO FOREGO FURTHER CLAIMS FOR FOOTWEAR SHOULD BE ATTRACTIVE TO CANADA SINCE SPECIALTY STEEL QUOTAS ARE DUE TO EXPIRE IN JUNE, 1979.

12. CANDEL RESPONDED THAT GOC VIEW REGARDING COMPENSATION FOR AN ARTICLE 19 ACTION WAS WELL KNOWN TO USDEL. CANDEL TERMED U.S. PROPOSAL FOR TRADE-OFF OF GATT RIGHTS A "NOVEL SUGGESTION" BUT REJECTED U.S. PROPOSAL ON BASIS THAT SUCH A TRADE-OFF IMPLIED GOC ACCEPTANCE OF PRINCIPLE  
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OF COMPENSATION AND THAT GOC PREFERRED TO RETAIN ITS RIGHTS IN SPECIALTY STEEL CASE. (CANDEL ALSO NOTIFIED USDEL THAT IT WOULD BE SEEKING FURTHER EXTENSION OF GATT RIGHTS ON SPECIALTY STEEL QUOTAS.) CANDEL REITERATED

THAT EACH TRADE RESTRICTIVE MEASURE MUST BE CONSIDERED ON ITS MERITS AND RHETORICALLY SUGGESTED THAT BOTH SIDES TALLY UP BALANCE OF TRADE RESTRICTIVE ACTIONS SINCE 1948.

13. CANDEL ASKED WHAT FACTORS DETERMINED U.S. REQUESTS FOR COMPENSATION, SINCE USG DOES NOT SEEK COMPENSATION IN EVERY CASE. USDEL REPLIED THAT ANTICIPATED DAMAGE TO U.S. TRADE DETERMINED U.S. REQUESTS FOR COMPENSATION. USDEL ADDED THAT PROPOSAL TO EXEMPT CERTAIN ITEMS FROM QUOTA COVERAGE INDICATED U.S. DESIRE TO MEET GOC HALF-WAY SINCE DELETIONS FROM QUOTA COVERAGE WOULD NOT DEROGATE FROM CANADIAN OPPOSITION TO COMPENSATORY CONCESSIONS.

14. CANDEL CLAIMED THAT TRADE DATA MAKES "PRIMA FACIE" CASE THAT U.S. EXPORTS HAVE NOT BEEN DAMAGED BY GOC QUOTAS ON FOOTWEAR IMPORTS. CANDEL CITED RECENT HISTORICAL LEVEL OF U.S. EXPORTS AS FOLLOWS (IN PAIRS):

	-----DEC.	JAN.	FEB.
74	115,000		
75	117,000	118,000	97,000
76	158,000	110,000	205,000
77	177,000	166,000	246,000
78		199,000	192,000

CANDEL NOTED THAT THE U.S. SHARE OF THE MARKET RANGES FROM 4 TO 8 PERCENT FOR THE THREE-MONTH PERIOD AND REMINDED USDEL THAT GOC IMPOSITION OF QUOTAS WAS CONSISTENT WITH GATT PRACTICE OF USING A REPRESENTATIVE PERIOD.

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15. USDEL RESPONDED IMPOSITION OF QUOTAS WILL, CETERIS PARIBUS, REDUCE U.S. SALES BY 17 PERCENT FROM 1976 LEVELS AND BY A SUBSTANTIALLY GREATER PERCENTAGE IF U.S. EXPORTS HAD CONTINUED AN UPWARD TREND. HOWEVER, 3 PERCENT U.S. SHARE OF LICENSES ISSUED IN FIRST FIVE MONTH PERIOD (VERSUS 6 PERCENT PREVIOUS MARKET SHARE) OFFERS EVERY REASON TO BELIEVE THAT FALL-OFF IN U.S. EXPORTS WILL BE EVEN MORE SEVERE THAN 17 PERCENT. USDEL REPEATED THAT REQUEST FOR EX-OUTS INCLUDED ONLY SPECIALTY ITEMS PERIPHERAL TO CANADIAN INDUSTRY'S CENTRAL CONCERNS AND THAT SIMILARITY OF WAGES AND INDUSTRIAL CONDITIONS IN TWO COUNTRIES, PLUS 25 PERCENT CANADIAN DUTY, OFFERED MORE THAN ADEQUATE PROTECTION TO PRODUCERS OF THESE ITEMS.

16. USDEL THEN COMMENTED THAT GOC POSITION LEFT NO ALTERNATIVE BUT TO CONSIDER RESTORING THE BALANCE OF CONCESSIONS THROUGH OTHER MEANS. USDEL THEN INFORMALLY TABLED LIST OF ITEMS FOR POSSIBLE RETALIATION, NOTING THAT THE ITEMS PROPOSED FOR RETALIATION COVER APPROXIMATELY DOLS 3 MILLION IN CANADIAN EXPORTS AND THAT PROPOSAL

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ENVISIONED CHARGING COLUMN 2 DUTY RATES ON CANADIAN FOOTWEAR EXPORTS IN THESE CATEGORIES.

17. CANDEL EXPRESSED REGRET THAT USDEL HAD TABLED LIST OF ITEMS FOR POSSIBLE RETALIATION. CANDEL REPEATED VIEW THAT U.S. EXPORTS HAD NOT BEEN REDUCED BY THE QUOTA SYSTEM, THAT EXPORTERS ARE NOT FINDING PROBLEMS WITH THE SYSTEM, AND THAT CANADIAN MINISTERS WOULD FIND IT DIFFICULT TO UNDERSTAND WHY U.S. FEELS COMPELLED TO "DO SOMETHING" IN LIGHT OF THESE FACTS. CANDEL NOTED THAT RETALIATION MIGHT PRECIPITATE A "FOOTWEAR WAR IN ADDITION TO OUR FISHERIES PROBLEMS". CANDEL REMINDED USDEL THAT U.S. HAD RECENTLY INDICATED THAT GOC'S PENDING ARTICLE 28 ACTION ON FRUITS AND VEGETABLES WAS INCONSISTENT WITH OBJECTIVES OF THE MTN AND NOTED SAME ARGUMENT WOULD APPLY TO U.S. RETALIATION AGAINST CANADIAN FOOTWEAR. USDEL REPLIED THAT AFTER ALL, GOC, NOT THE U.S., HAD TAKEN ORIGINAL PROTECTIONIST ACTION ON FOOTWEAR.

18. USDEL REITERATED THAT THERE WAS EVERY REASON TO EXPECT DAMAGE TO U.S. TRADE SINCE QUOTAS WILL CUT BACK GLOBAL IMPORTS 17 PERCENT FROM 1976 LEVELS AND LICENSES ISSUED FOR U.S. EXPORTS WERE ONLY 3 PERCENT OF TOTAL

ISSUED (VERSUS PREVIOUS MARKET SHARE OF 6 PERCENT).  
UNDER THESE CIRCUMSTANCES, U.S. COULD NOT SIMPLY WAIT  
FOR DAMAGE TO U.S. EXPORTS AS CANDEL SEEMED TO REQUEST.  
USDEL STATED HE WOULD RECOMMEND RETALIATION BY ANNOUNCING  
SECTION 125 (F) HEARINGS BASED ON THE TENTATIVE RETALIATION  
LIST.

19. CANDEL SUGGESTED POSSIBILITY OF HIGH-LEVEL CONTACT  
BEFORE EITHER PARTY TAKES FURTHER ACTION. CANDEL NOTED  
THAT CURRENT NEGOTIATIONS RE FORMULATION OF A NEW SAFE-  
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GUARDS CODE MIGHT AFFECT ONGOING NEGOTIATION. USDEL  
REPLIED THAT NOTHING NOW ENVISIONED IN THIS CODE WOULD  
MATERIALLY AFFECT THIS NEGOTIATION.

20. USDEL THEN ASKED ABOUT RECENT PRESS REPORT INDICATING  
THAT CERTAIN ITEMS WOULD BE DELETED FROM QUOTA COVERAGE.  
CANDEL REPLIED THAT ARTICLE CARRIED NO OFFICIAL SANCTION  
AND THESE CHANGES, INsofar AS THEY WOULD BE IMPLEMENTED,  
WOULD BE IMPROVEMENTS ON THE FRINGES OF THE QUOTA SYSTEM.  
CANDEL, HOWEVER, REPEATED OFT-STATED OFFER TO CORRECT  
ANOMALIES AND TO LOOK FOR IMPROVEMENTS ON THE FRINGES OF  
THE SYSTEM AND NOTED THAT WOMEN'S GOLF SHOES WOULD SOON  
BE EXCLUDED FROM QUOTA COVERAGE. CANDEL NOTED THAT FULL-  
SCALE REVIEW OF SYSTEM WOULD BEGIN IN JUNE AND ASKED  
USDEL TO SUPPLY ANY INFORMATION BEFORE THAT DATE.

21. DELEGATION HEADS AGREED TO TELEPHONE CONTACT IN  
2-3 WEEKS TO DISCUSS NEXT STEPS BEFORE U.S. TAKES FORMAL  
STEPS TOWARD RETALIATORY ACTION.

22. COMMENT: THERE WAS NO CHANGE IN CANADIAN POSITION  
BETWEEN SECOND AND THIRD ROUNDS OF CONSULTATIONS. ONLY  
NEW FACTS PRESENTED WERE MINOR ADMINISTRATIVE CLARIFICA-  
TIONS AND ADDITIONAL TRADE DATA. USDEL BELIEVES THAT GOC  
POSITION ON EX-OUTS REFLECTS CANADIAN CONCERN REGARDING:  
1) THE INTEGRITY OF THE GOC'S HISTORICAL POSITION ON  
ARTICLE 19 CASES; 2) THE COMPETITIVE POSITION OF DOMESTIC  
MANUFACTURERS AFFECTED BY U.S. EX-OUT REQUESTS; 3) THE  
POSSIBILITY OF PRECIPITATING LARGE (AND UNMEETABLE)  
REQUESTS FOR EX-OUTS AND/OR COMPENSATION FROM BRAZIL,  
THE EC AND OTHER SUPPLIERS. IT IS DIFFICULT, HOWEVER, TO  
WEIGH RELATIVE IMPORTANCE OF THESE FACTORS. ALTHOUGH  
CANDEL DID NOT ADDRESS OFT-REPEATED U.S. CONTENTION THAT

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LOW LEVEL OF LICENSES ISSUED FOR U.S. IMPORTS INDICATED  
FALL-OFF IN U.S. SALES, WE HAVE NO DOUBT THAT MAINTENANCE  
OF U.S. MARKET SHARE THROUGH FEBRUARY WILL BE USED TO  
JUSTIFY LACK OF ANY ACCOMMODATION OF U.S. REQUESTS.

23. BRIAN ARMISHAW OF OSIP PRIVATELY INFORMED COMMERCIAL  
COUNSELOR MAY 12 THAT GOC HAS REJECTED NO LICENSES FOR  
COWBOW BOOTS OR CHILDREN'S FOOTWEAR, DESPITE SUBSTANTIAL  
CANADIAN PRODUCTION OF THE LATTER. ARMISHAW IMPLIED THAT  
GOC WOULD MEET U.S. CONCERNS (ESPECIALLY ON SPECIALTY  
ITEMS) THROUGH "LENIENT AND REASONABLE" ENFORCEMENT OF  
QUOTA SYSTEM. THIS SIMILAR TO LINE GOC HAS RECENTLY  
TAKEN WITH EC REPS., AND EC HAS APPEARED HOPEFUL ITS  
MINIMUM INTEREST -- MAINTAINING TRADE AT SAME LEVEL AS IN  
1974-76 BASE PERIOD -- MIGHT BE ACCOMMODATED THROUGH THESE  
MEANS.

24. FOR USEC: YOU MAY WISH TO BRIEF COMMISSION ON ABOVE  
AS CANADIAN DEL WILL HOLD CONSULTATIONS WITH EC MAY 17-18  
IN BRUSSELS. FYI: EMBOFFS ON MAY 15, AFTER U.S. DELEGA-  
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TION'S DEPARTURE, BRIEFED EC COMMERCIAL SECRETARY VAN RIJ  
ON SUBSTANCE OF CONSULTATION. VAN RIJ SAID THAT, PERSONAL-  
LY, HE BELIEVED EC HAD LITTLE CHOICE BUT ALSO TO MOVE  
TOWARD RETALIATION IF CANADA WAS NO MORE FORTHCOMING  
IN BRUSSELS THAN IT HAD BEEN WITH U.S. END FYI. ENDERS



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## Message Attributes

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